



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1998

Ms. Susan M. Cory
General Counsel
Texas Workers' Compensation Commission
Southfield Building, MS-4D
4000 South IH-35
Austin, Texas 78704-7491

OR98-1094

Dear Ms. Cory:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115412.

The Texas Workers' Compensation Commission (the "Commission") received a request for its Administrative Violation Referral Guide. You assert that the requested information is excepted from required public disclosure based on sections 552.108 and 552.111 of the Government Code.

Section 552.108 of the Government Code reads in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

....

You describe the requested information as a "program developed by the Commission to assist staff in the identification and processing of administrative violations." You assert that release of the information "would reveal law enforcement methods, techniques and strategies." You inform us that the Commission is given authority to enforce the Texas Workers' Compensation Act. *See generally* Labor Code ch. 401. You state that the Commission maintains files of investigations of possible violations of the Government Code,

the Texas Workers' Compensation Act and the Texas Penal Code. You aver that the "effectiveness of the Commission's investigations, and their objective, enforcement of the law, will be jeopardized" by the release of the requested information.

We have reviewed the requested guideline and considered your arguments. We conclude that the Commission has not established that the release of the information would interfere with the detection, investigation, or prosecution of crime. Accordingly, the Commission may not withhold the information from the requestor based on section 552.108.

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.*

We do not believe the information at issue contains advice, recommendation or opinions reflecting the policymaking process. Rather, the guideline appears to be a directive to Commission personnel who process administrative violations. Accordingly, we conclude that the Commission may not withhold the information from the requestor based on section 552.111.

You state that the release of source codes and computer program information will compromise the Commission's security. This office has stated that computer programs are not "information" subject to public disclosure under the Open Records Act. Open Records Decision No. 581 (1990). Thus, to the extent the guideline contains source codes and computer program information, the act does not require its release. *See id.*

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID# 115412

Enclosure: Submitted document

cc: Ms. Sarita Shipe
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(w/o enclosure)